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RECEIVED
FEDERAL ELECTION
COMMISSION
2013 JUL -5 AM 9:47

GELA

RE: MUR 6734; Don Scifres

Mr. Scifres was contacted by you by letter dated May 14, 2013, questioning whether a complaint the FEC received from Citizens for Responsibility and Ethics identified him as exceeding his 2011-2012 biennial limit by approximately \$37,000.

Your letter provided him an opportunity to demonstrate in writing that no action should be taken against him in this matter, and your office accepted our law office as his counsel and allowed him to reply by July 3, 2013. (See Attachments #1 and #2.) He has reviewed and approved this letter written on his behalf, and he will submit statements under oath if asked.

Mr. Scifres was quite surprised when he received your letter. He had no knowledge that federal campaign law included biennial limits. He understood that the Federal Election Campaign Act had a per candidate per election \$2,500 limit; however, he did not know the Act also had 2011-2012 biennial limits of \$117,000 for all his federal contributions and different levels for candidates, Parties and PACs.

None of the committees to whom he contributed informed him of these limits. Nor did any correspondence from these committees inform him that he could re-attribute his contributions to his wife in whole or in part.

1404460242
Jeff S. Jordan, Supervisor Attorney
Complaints, Examination and Legal Administration
Federal Election Commission
July 3, 2013
Page 2

Introduction

Mr. Scifres and his wife, Carol, both make contributions to federal candidates, national parties, local parties and PACs, and had they known of the biennial limits, as the enclosed documents show, each of them could easily have been well within their own biennial limits (including each sub-limit) in making all the contributions that they both made during these last two years.

Request for No Action

As Don Scifres (1) is taking full responsibility for not knowing there were biennial limits, (2) has sought and received refunds in excess of the total amount he exceeded the biennial limit on candidate contributions and reduced his Parties and PAC totals by refunds and a re-attribution and a re-designation sufficient to bring these contributions within these biennial limits, (3) has been informed by me the *McCutcheon* case will soon answer whether these biennial limits are constitutional and (4) is cooperating with your request for information in this matter, he asks that no action should be taken against him for this inadvertent violation.

Summary of Enclosed Documents

This law firm did not represent Don or Carol Scifres before being contacted by Mr. Scifres after he received your letter.

Mr. Scifres immediately went through their joint checking account and credit card records for 2011 and 2012 and provided me their contributions, which our office then arranged in chronological order and categorized them by contributions to (1) candidates, (2) national parties, (3) PACs and federal accounts of state and local parties and (4) "not subject to limit" contributions. (See Attachments #3 and #4.)

Actions Taken to Come Within Limits

After providing these charts to Don and Carol Scifres, Mr. Scifres commenced the following activities:

Jeff S. Jordan, Supervisor Attorney
Complaints, Examination and Legal Administration
Federal Election Commission
July 3, 2013
Page 3

First, as you will see by looking at both contribution histories, their combined totals are well within all the FECA legal limits had that law allowed for a joint limit of \$234,000. Said another way, once Don Scifres received your letter, she and he could have sent a series of re-attribution letters to a number of committees to whom he made contributions, and had those committees re-attributed these contributions to Carol Scifres, he would not have needed to take all actions discussed below.

Second, Mr. Scifres immediately commenced communications with many of the campaigns to whom he contributed seeking refunds. He also sought one re-attribution by the one joint fundraising committee to which he contributed and one re-designation, as discussed below:

(a) To decrease his contributions to candidates, he sought and so far has received refunds from 14 candidate committees that total \$30,650. (See Attachment #5.) Prior to these refunds, he had exceeded his candidates limit by \$24,450 (See Attachment 3); consequently, he is now \$8,200 below his limit. He has also been informed by two committees to expect contribution refunds totaling \$3,000.

(b) He then contacted "Romney Victory," a joint fundraising committee. On May 27, 2013, it approved an authorization by Don and Carol Scifres to re-attribute \$11,700 of Don's \$25,000 contribution to her, which change of contributors Romney Victory has communicated to the individual committees that received their portions of his \$25,000, instructing them to amend their reports to show Carol Scifres as the contributor. (See Attachments #6 and #5).

(c) Mr. Scifres also sought a refund of \$10,800 from the Republican National Committee for his contribution made on September 16, 2012. The RNC instead asked his permission to re-designate his contribution to the RNC Recount Fund, to which he agreed. That donation is not subject to the \$117,000 biennial limit nor the \$42,500 limit to Parties. (See Attachments #7 and #5.)

(d) To further decrease his contributions to PACs, he sought and received refunds from five PACs that total \$22,000. (See Attachment #5.)

Jeff S. Jordan, Supervisor Attorney
Complaints, Examination and Legal Administration
Federal Election Commission
July 3, 2013
Page 4

Before these re-attributions, re-designation and refunds, Don Scifres was \$33,800 above the limit for national parties and PACs (see Attachment 3); he is now \$10,700 under that sub-limit.

Therefore, before Don Scifres' proactive activities undertaken since receiving your letter, when he was \$58,250 over his 2011-2012 total contribution biennial limit (see Attachment 3), he has now offset that by at least \$75,150 of refunds, a re-attribution and a re-designation, to now be below his biennial limit by \$16,900.

Third, for your information, the Scifres' checks to this joint fundraising committee and to all federal committees were community property.

Fourth, Carol Scifres' contribution history (Attachment #4) shows that becoming a \$36,700 contributor to the Romney Victory joint fundraising committee (formerly \$25,000) does not place her anywhere near any of her 2011-2012 applicable biennial limits.

Future Compliance

By using our firm's Excel spreadsheets, or a similar method, both Don and Carol Scifres will henceforth ensure that their federal contributions remain within the applicable biennial limits, if those limits remains the law. They now understand the biennial total limit, and they understand the very confusing sub-limits by categories.

Summary

Don Scifres would never have intentionally violated the FECA biennial limits, and he apologizes for his inadvertent actions. Mr. Scifres believes he has done everything possible to remedy his over limit contributions from those who received them, enough to now be within those limits, and he and his wife now have a compliance system in place to track all their future federal contributions.

Mr. Scifres asks the Commission to take these facts into consideration as you address this matter, and he asks the FEC not to take action against him.

Jeff S. Jordan, Supervisor Attorney
Complaints, Examination and Legal Administration
Federal Election Commission
July 3, 2013
Page 5

Alternative Dispute Resolution

Should the Commission conclude that Mr. Scifres' facts and remedial efforts to comply with the Federal Election Campaign Act were, or are, not enough to avoid it moving forward, I have explained to him that the FEC has an Alternative Dispute Resolution process, how it works and why the Commission should be asked to approve it for his matter if enforcement is to ensue. Since there are no facts in dispute, if necessary, Mr. Scifres requests ADR; he prefers a speedy, non-adversarial resolution. He will cooperate fully and timely.

Please feel free to contact me if you need any additional information or if you want to discuss this matter with me or with Don Scifres.

Very truly yours,


Vigo Q. Nielsen, Jr.

VGN/cll
Enclosures
#8258.01

ATTACHMENT
#1

Chip Nielsen

From: Chip Nielsen
Sent: Thursday, May 23, 2013 3:43 PM
To: 'hampton@fec.gov'
Subject: MUR # 6734

TO: Frankie D. Hampton, Paralegal Specialist
Federal Election Commission
Office of General Counsel, CELA Division
999 E Street, N. W.
Washington, DC 20463

FROM: Vigo, G. Nielsen, Jr., counsel to Donald R. Scifres

DATE: May 23, 2013

RE: MUR 6734

Attached please find the Statement of Designation of Counsel from Donald R. Scifres, in response to the FEC's letter to him dated May 14, 2013. Mr. Scifres informs me that he received it on May 18, 2013.

It will take considerable time for me to review all his and his wife's federal contributions made in 2011-2012. He has just retained this firm to assist him in making a complete answer to the complaint. He is compiling his records, but we have not yet received them.

As we discussed today, we respectively seek an extension of an additional 30 days to reply.

The CREW complaint and the HuffPost attachment did not include a list of contributions that they believed our client made in 2011-2012. If either provided it to the FEC, may I have a copy?

If the FEC has made a list of the contributions that it believes our client made in 2011-2012, may I have a copy?

If there is anything else the FEC needs from me now, please do not hesitate to ask.

Chip Nielsen

Vigo G. Nielsen, Jr.
NIELSEN MERKSAMER
PARRINELLO GROSS & LEONI LLP
2350 Kerner Boulevard, Suite 250
San Rafael, California 94901
t: 415.389.6800 | f: 415.388.6874
www.nmgovlaw.com



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
FAX (202) 219-3923

MUR # 6734

NAME OF COUNSEL: Viggo G. Nielsen, Jr.

FIRM: Nielsen Merksamer Parrinello Gross & Leoni LLP

ADDRESS: 2350 Kerner Boulevard, Suite 250

San Rafael, CA 94901

TELEPHONE- OFFICE (415) 389-6800

FAX (415) 388-6874

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5/23/13
Date

Don Scifres
Respondent/Agent-Signature

Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Donald R. Scifres

MAILING ADDRESS: 480 San Antonio Road, Suite 200
(Please Print)

Mountain View, CA 94040

TELEPHONE- HOME () _____

BUSINESS (650) 559-9355

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

Rev. 2006

ATTACHMENT
#2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 2013

VIA FIRST CLASS MAIL

Vigo G. Nielsen, Jr.
Nielsen Merksamer
Parrinello Gross & Leoni LLP
2350 Kerner Boulevard, Suite 250
San Rafael, California 94901

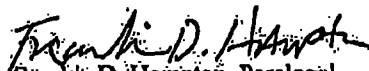
RE: MUR 6734
Donald R. Selfres

Dear Mr. Nielsen:

This is in response to your letter dated May 23, 2013, which we received that day requesting a 30-day extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on or before July 3, 2013.

If you have any questions, please contact me on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,


Frankie D. Hampton, Paralegal
Complaints Examination and
Legal Administration